



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that exporters of fresh garlic from the People's Republic of China (China) sold merchandise in the United States at prices below normal value (NV) during the period of review (POR), November 1, 2016, through October 31, 2017. We invite interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6251 or (202) 482-4956.

SUPPLEMENTARY INFORMATION:

*Background*

On January 11, 2018, Commerce initiated the twenty-third administrative review of fresh garlic from China with respect to 53 companies and invited interested parties to comment.<sup>1</sup>

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal

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<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 1329 (January 11, 2018).

Government from January 20 through January 22, 2018. As a result, all deadlines in this segment of the proceeding have been extended by three days.<sup>2</sup>

### *Scope of the Order*

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, and 0703.20.0090. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see “Scope of the Order” in the accompanying Preliminary Decision Memorandum.<sup>3</sup>

### *Partial Rescission of Administrative Review*

On January 11, 2018, Commerce initiated a review of 53 companies in this administrative review.<sup>4</sup> The mandatory respondents are Shandong Jinxiang Zhengyang Import & Export Co., Ltd. (Zhengyang) and Qingdao Sea-line International Trading Co. Ltd. (Sea-line). Between March 27, 2018, and April 12, 2018, review requests were timely withdrawn for twelve companies.<sup>5</sup> Commerce is, therefore, partially rescinding this administrative review with respect to the companies listed in Appendix I, in accordance with 19 CFR 351.213(d)(1).

### *Methodology*

Commerce is conducting these reviews in accordance with sections 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214. Export prices

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<sup>2</sup> See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated January 23, 2018 (Tolling Memorandum).

<sup>3</sup> See Memorandum, “Decision Memorandum for the Preliminary Results and Final Rescission, In Part, of the 2016-2017 Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China” (November 30, 2018) (Preliminary Decision Memorandum).

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 1329 (January 11, 2018).

<sup>5</sup> See Preliminary Decision Memorandum at 3.

were calculated in accordance with section 772(a) of the Act. Because China is a non-market economy (NME) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### *Preliminary Determination of No Shipments*

As discussed at "Preliminary Determination of No Shipments" in the accompanying Preliminary Decision Memorandum, the QTF-Entity<sup>6</sup> and Jining Shengtai Fruits and Vegetables Co., Ltd. (Shengtai) filed "no shipment" certifications stating that they had no entries into the United States of subject merchandise during the POR. Accordingly, we requested that U.S. Customs and Border Protection (CBP) conduct a query of potential shipments made by the QTF-Entity and Shengtai. Based on the company certifications and our analysis of CBP information,

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<sup>6</sup> The QTF-Entity includes Qingdao Lianghe International Trade Co., Ltd. (Lianghe); Qingdao Xintianfeng Foods Co., Ltd. (QXF); Qingdao Tiantaixing Foods Co., Ltd. (QTF); Qingdao Tianhefeng Foods Co., Ltd. (QTHF); Qingdao Beixing Trading Co., Ltd. (QBT); Hebei Golden Bird Trading Co., Ltd.; and Huamei Consulting. *See* Memorandum, "23<sup>rd</sup> Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Status of the QTF-Entity," dated October 22, 2018 at Attachment.

we preliminarily determine that the companies listed in Appendix III did not have any shipments of subject merchandise during the POR. In addition, we find that it is appropriate to complete the administrative review with respect to these companies and intend to issue appropriate instructions to CBP based on the final results of the administrative review.<sup>7</sup>

### *Verification*

As provided in section 19 CFR 351.307, we intend to verify information relied upon in the final results of the review.

### *Preliminary Determination of Separate Rates for Non-Selected Companies*

In accordance with section 777A(c)(2)(B) of the Act, Commerce employed a limited examination methodology, as we determined that it would not be practicable to examine individually all companies for which a review request was made.<sup>8</sup> There were six exporters of subject merchandise from China that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These six exporters are listed in Appendix II.

Neither the Act nor Commerce's regulations address the establishment of the rate applied to individual companies not selected for examination where Commerce limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce's practice in cases involving limited selection based on exporters accounting for the largest volume of imports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs Commerce to use rates established for individually investigated producers and exporters,

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<sup>7</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011); see also "Assessment Rates" section below.

<sup>8</sup> See Memorandum, "Selection of Respondents for Individual Examination," dated February 28, 2018.

excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations. In this review, we calculated weighted-average dumping margins for Zhengyang and Sea-line, and consistent with our practice, calculated an all-others rate for the companies to which it granted separate rate status, but which it did not individually examine.<sup>9</sup>

#### *China-Wide Entity*

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.<sup>10</sup> Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested, and Commerce did not self-initiate, a review of the China-wide entity for this POR, the entity is not under review and the entity's rate (*i.e.*, \$4.71/kg) is not subject to change.<sup>11</sup> Aside from the no shipments companies discussed below, and the companies for which the review is being rescinded, Commerce considers all other companies for which a review was requested, and which did not preliminarily qualify for a separate rate, to be part of the China-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

#### *Preliminary Results of Administrative Review*

Commerce preliminarily determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2016, through October 31, 2017:

<b>Exporter</b>	<b>Weighted-Average Margin (dollars per kilogram)</b>
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<sup>9</sup> See Memorandum, "Calculation of the Preliminary Dumping Margin for Separate Rate Recipients," dated November 30, 2018.

<sup>10</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>11</sup> See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 13<sup>th</sup> Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 29174 (June 19, 2009).

Shandong Jinxiang Zhengyang Import & Export Co., Ltd.	2.87
Qingdao Sea-Line International Trading Co., Ltd.	4.60
Chengwu County Yuanxiang Industry & Commerce Co., Ltd	3.69
Jining Alpha Food Co., Ltd.	3.69
Qingdao Maycarrier Import & Export Co., Ltd.	3.69
Shandong Chenhe International Trading Co., Ltd.	3.69
Shandong Happy Foods Co., Ltd.	3.69
Weifang Hongqiao International Logistics Co., Ltd.	3.69

*Disclosure, Public Comment and Opportunity to Request a Hearing*

Commerce intends to disclose the calculations used in our analyses to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted by interested parties no later than seven days after the date on which the final verification report is issued in these proceedings and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>12</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>13</sup> Any electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by the date and time it is due.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal

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<sup>12</sup> See 19 CFR 351.309. See also 19 CFR 351.303 (for general filing requirements).

<sup>13</sup> See 19 CFR 351.309(c)(2).

briefs. If a party requests a hearing, Commerce will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

Commerce intends to issue the final results of these reviews, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### *Assessment Rates*

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with 19 CFR 351.212(b). For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions with respect to the companies for which this review is rescinded to CBP 15 days after the publication of this notice. For the remaining companies subject to review, Commerce will direct CBP to assess rates based on the per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR. Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

Pursuant to Commerce's assessment practice in NME cases, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), Commerce will instruct CBP to liquidate such entries at the NME-

wide rate. In addition, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the China-wide rate.<sup>14</sup>

#### *Cash Deposit Requirements*

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required for that company); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 4.71 U.S. dollars per kilogram; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These requirements, when imposed, shall remain in effect until further notice.

#### *Notification to Importers*

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this

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<sup>14</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).



requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: November 30, 2018

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary of Enforcement and Compliance

## **Appendix I**

### **Companies for Which Administrative Reviews Have Been Rescinded**

1. Foshan Fuyi Food Co., Ltd.
2. Jining Shunchang Import & Export Co., Ltd.
3. Jinxiang Feiteng Import & Export Co., Ltd.
4. Jinxiang Hejia Co., Ltd.
5. Jinxiang Kingkey Trade Co., Ltd.
6. Qingdao Joinseafoods
7. Shenzhen Bainong Co., Ltd.
8. Shenzhen Xinboda Industrial Co., Ltd.
9. Shijiazhuang Goodman Trading Co., Ltd.
10. Weifang Naiké Food Co., Ltd.
11. Zhengzhou Harmoni Spice Co., Ltd.
12. Zhengzhou Yudishengjin Agricultural Trade Co., Ltd.

## **Appendix II**

### **Non-Selected Separate Rate Companies**

1. Chengwu County Yuanxiang Industry & Commerce Co., Ltd
2. Jining Alpha Food Co., Ltd.
3. Qingdao Maycarrier Import & Export Co., Ltd.
4. Shandong Chenhe International Trading Co., Ltd.
5. Shandong Happy Foods Co., Ltd.
6. Weifang Hongqiao International Logistics Co., Ltd.

## **Appendix III**

### **Companies That Have Certified No Shipments**

1. QTF-Entity
2. Jining Shengtai Fruits & Vegetables Co., Ltd.

[FR Doc. 2018-26652 Filed: 12/7/2018 8:45 am; Publication Date: 12/10/2018]